IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 57411-M of 2004

DATE OF DECISION : 29.08.2006

Jagan Nath

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

Crl. Misc. No. 15263-M of 2005

Janak Singh and others

.... PETITIONERS

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Baldev Singh, Senior Advocate, with
Mr. Sudhir Sharma, Advocate,
for the petitioners.

Mr. Partap Singh, Senior D.A.G., Haryana.

Ms. Aarti Gupta, Advocate,
for the complainant.

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This order shall dispose of Crl. Misc. No. 57411-M of 2004, filed by Jagan Nath, and Crl. Misc. No. 15263-M of 2005, filed by Janak Singh and four others for quashing of FIR No. 224 dated 14.7.2003 under Sections 195, 211, 167, 342, 389 and 109 IPC, registered at Police Station Civil Lines, Karnal, District Karnal, along with all the subsequent proceedings.

2. The brief facts of the case are that in the month of June, 2003, petitioner Jagan Nath was working as Sub Inspector, Excise Staff Incharge, Karnal. On 19.6.2003, he along with other officials, including the

petitioners of Crl. Misc. No. 15263-M of 2005 apprehended one Puneet Kumar son of Om Parkash and got registered FIR No. 195 at Police Station Civil Lines, Karnal, under Section 18 of the NDPS Act, against him on the allegation that 2 ½ Kgs. of opium was recovered from his possession. In the FIR, it was alleged that when the said Puneet Kumar was coming from Model Town to G.T. Road, Santoshi Mata Mandir, Model Town, Karnal, having a plastic bag in his right hand, he was apprehended on suspicion and his search was made in the presence of DSP, AEC Karnal and from his possession, 2 ½ Kgs. of opium was recovered.

3. After registration of the said case, Om Parkash, father of accused Puneet Kumar made a complaint before SSP, Karnal, stating therein that his son Puneet Kumar was falsely implicated by the petitioners. On the said complaint, DSP, Headquarters, Karnal was directed to hold an enquiry into the matter. After the enquiry, DSP, Headquarters, Karnal, submitted his report dated 14.7.2003, in which it was reported that FIR No. 195 dated 19.6.2003 was registered against Puneet Kumar on the basis of false facts. During the enquiry, it was found that the alleged opium was planted upon accused Puneet Kumar, whereas actually the said opium was recovered from the house of one Balram.

4. After the said report, SSP, Karnal directed for registration of the case against the petitioner. Consequently, FIR No. 224 dated 14.7.2003 was registered against the petitioners at Police Station Civil Lines, Karnal, under Sections 195, 211, 167, 342, 389 and 109 IPC, quashing of which is being sought by way of these two separate petitions.

5. Pursuant to the notice, reply on behalf of the State of Haryana has been filed, in which it has been stated that on the complaint made by Om Parkash, father of Puneet Kumar, a detailed enquiry was conducted by the DSP, Headquarters, Karnal, in which it was found that a false case was planted upon Puneet Kumar. It has been further stated that Jagan Nath petitioner and other petitioners filed Crl. Misc. No. 34951-M of 2003 and Crl. Misc. No. 34513-M of 2003 in this Court praying for fair investigation of the matter, in which this Court, vide order dated 4.12.2003, directed for further enquiry. In compliance of that order, a fresh enquiry was entrusted to

Inspector General of Police, Rohtak Range, Rohtak. Again the enquiry was conducted by the said officer and he also found that a false case was planted upon accused Puneet Kumar. Thereafter, an application was filed by petitioner Jagan Nath to Director General of Police, Haryana, for holding a fair enquiry by a senior officer. On the said application, DGP, Haryana, directed ASP, Headquarter Jhajjar to conduct an enquiry. For the third time, the enquiry was conducted by the said officer, who in his enquiry report also found the petitioner guilty of planting a false case upon Puneet Kumar. All these three enquiry reports have been annexed with the reply.

6. I have heard the arguments of learned counsel for the parties.

7. Counsel for the petitioners contends that in FIR No. 195 dated 19.6.2003 under the NDPS Act, after completion of investigation, the challan was filed in the Court of Special Judge, Karnail. Thereafter, the charge has been framed against accused Puneet Kumar for the offence under Section 18 of the NDPS Act and the said matter is still pending. He further contends that in the impugned FIR also, which has been registered against the petitioners, the police has submitted the challan and the charge is yet to be framed. Counsel contends that since the charge has already been framed against accused Puneet Kumar and the case is now at the stage of prosecution evidence, therefore, at this stage, the FIR registered against the petitioners only on the basis of enquiry,conducted by the police officers is totally abuse of the process of the court and FIR is liable to be quashed.

8. On the other hand, counsel for the respondents-State submits that three times high level enquiry was conducted by senior police officers and in all the three enquiries, it has been found that the petitioner has planted a false case upon accused Puneet Kumar. During the enquiry, it has been found that no recovery was effected from the said accused. Counsel for the respondents further submits that after the investigation, the police had submitted the challan in the court and since the offence under Sections 195/109 IPC is exclusively triable by the Court of Sessions, therefore, the case has been committed to the Court of learned Sessions Judge, Karnal. Now, the same is pending for consideration and framing of charge. Thus, counsel contends that at this stage, the FIR should not be quashed.

9. After hearing counsel for the parties and going through the record of the case and particularly, three enquiries conducted by various police officers, I do not find any merit in the instant petition. In this case, three enquiries were conducted by three different senior police officers on the complaint made by father of Puneet Kumar. In all the enquiries, it was found that a false case under the NDPS Act was planted upon Puneet Kumar by the petitioner. No recovery was effected from him and 2 ½ Kgs. of opium recovered from the house of one Balram was planted on Puneet Kumar. SSP, Karnal, after satisfying himself regarding the averments made in the complaint on the basis of the enquiries, lodged the aforesaid FIR, in which after investigation, challan has already been filed and the case has been committed to the Court of Sessions Judge, Karnal and is pending at the stage of framing of charge. In these circumstances, in my opinion, at this stage, the impugned FIR cannot be quashed merely on the ground that criminal case registered by the petitioner against Puneet Kumar under the NDPS Act is still pending and in that case, it is yet to be established whether the recovery was effected from the accused or from some other person. In my opinion, on this ground, the FIR cannot be quashed. In view of this, I do not find any merit in this petition.

10. Dismissed.

11. However, keeping in view the facts and circumstances of the case, it is ordered that the aforesaid two cases, which are pending before Special Judge, Karnal and Sessions Judge, Karnal, shall be tried together simultaneously by one Court.

August 29, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**